

**STATE OF ARIZONA**  
**CITIZENS CLEAN ELECTIONS COMMISSION**

In the Matter of:

MUR No.: 04- 0030

Jesse Hernandez,

**SETTLEMENT AGREEMENT**

Respondent.

Pursuant to A.R.S. § 16-957(A), the Citizens Clean Elections Commission (“Commission”) and Jesse Hernandez, a participating candidate for State Senate, District 17, (Hereinafter “Respondent”) agree to enter into a public administrative settlement of this matter in the manner described below:

1. The Commission finds that the Respondent unintentionally and unknowingly violated the following provisions of the Citizens Clean Elections Act (“Act”) or Commission rules:

2. On May 26, 2005, the Commission found reason to believe that the Respondent violated R2-20-702(C) for purchasing a fixed asset exceeding \$600.00. The alleged payment was made to Professional Computers on August 20, 2004 for \$925.00 for “campaign computer.”

3. On May 26, 2005, the Commission found reason to believe Respondent failed to comply with reporting requirements prescribed in A.R.S §16-913 and A.A.C. R2-20-109. Respondent failed to report receipt of his general election funding \$16,980.00, received on September 8, 2004, and matching funds in the amount of \$4,300.00 and \$786.67 received on October 20 and 22, 2004, respectively. In the Final Audit Report, Respondent’s failure to report resulted in five of six expenditures tested for audit not being reported on the campaign finance report. The campaign activity reflected on the campaign finance report and the bank statements differed by

1 more than \$17,000.00. During the testing of check disbursements, nine debit card transactions  
2 had cleared the bank, but were not reported on the campaign finance report.

3 4. Pursuant to A.R.S. §16-957, on May 26, 2005, an Order was issued to allow Respondent  
4 fourteen days to comply with A.R.S. §16-941.

5 5. On June 23, 2005, Respondent furnished partial bank records, receipts and invoices. A  
6 *subpoena duces tecum* was issued to Tempe Schools Credit Union to furnish complete check  
7 copies and bank statements on June 29, 2005.

8 6. On August 17, 2005, Respondent submitted a response indicating that the allegation that  
9 he purchased a fixed asset exceeding \$600.00 and violating A.A.C. R2-20-702(C) was incorrect.  
10 The expenditure to Professional Computers in the amount of \$925.00 was for website consulting  
11 fees.  
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13 7. On August 31, 2005, Respondent submitted an amended campaign finance report with the  
14 Secretary of State's office. The amended report inaccurately reflected a (\$677.00) balance.

15 8. On September 15, 2005, the Commission found no probable cause there was a violation  
16 of R2-20-202(C)(4) and instructed staff to further investigate the matter regarding the Reporting  
17 Requirements violation of A.R.S §16-913 and A.A.C. R2-20-109.

18 9. On October 28, 2005, Auditors Miller, Allen & Company completed their investigative  
19 report on agreed-upon procedures. Their report indicated that Respondent failed to report  
20 \$1,065.02 in expenditures and \$615.00 in deposits on his amended campaign finance report filed  
21 on August 31, 2005. The report also indicated that Respondent held a \$125.66 balance in his  
22 account which was owed back to the Commission. The sum of these monies equals \$1,805.68.  
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24 10. Respondent stipulates that he did not knowingly violate the Act or Commission Rules.  
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11. Respondent waives any right he may have under A.R.S. § 41-1092, including the right to a hearing or appeal in this matter, and agrees with the Commission to an informal settlement of this matter.

WHEREFORE, the Commission enters the following orders in lieu of any other action regarding this matter:

1. Respondent agrees to pay \$1,190.66, which is the sum of the expenditures not reported on the amended campaign finance report and the amount remaining in his account at the end of the campaign, to the Citizens Clean Election Commission within 30 days of the date of this Settlement Agreement.

2. Respondent acknowledges that the Commission has the authority to fine Respondent ten times the amount by which expenditures exceeded the applicable limit.

3. The Commission declines to impose the maximum penalty based on the following reasons:

- Respondent cooperated fully with the audit, investigation and resolution of this matter;
- Absence of a prior enforcement action before the Commission; and
- Respondent made a good faith effort to comply with the Act, and attended a Commission-sponsored training class on June 23, 2004.

Accordingly, the Commission orders that all proceedings commenced by the Commission be terminated and the matter be closed upon payment of the civil penalty. This agreement is subject to final approval by the Commission during its November 3, 2005 meeting.

Dated this \_\_\_\_ day of November, 2005

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By: \_\_\_\_\_

L. Gene Lemon

By: \_\_\_\_\_

Jesse Hernandez

Original filed this \_\_\_\_ day  
Of November, 2005, with:

Campaign Finance Manager  
Citizens Clean Elections Commission  
1616 West Adams, Suite 110  
Phoenix, Arizona 85012

Copy of the foregoing sent via  
Federal Express this \_\_\_\_ day  
of November, 2005 to:

Jesse Hernandez  
450 E. Carson  
Tempe, AZ 85282